



# State of South Carolina

## Office of the Governor

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GOVERNOR

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March 6, 2009

The Honorable Karl B. Allen  
330B Blatt Building  
Columbia, South Carolina 29201

Dear Karl:

In the spirit of speaking now or holding my peace, I wanted to offer a few thoughts on the proposed FY 2009-10 appropriations bill prior to debate on the House floor next week. Having recently written our own Executive Budget, we understand the challenges that the current economic climate presents – a climate that while daunting, also presents an opportunity to re-establish a financially responsible path for budgets going forward. In these challenging times, we not only wish you well in your deliberations, but we are committed to helping.

Let me start by applauding the Ways and Means Committee for recognizing the need to fully fund the \$45.6 million deficit at the Department of Corrections (SCDC). The work being done by the SCDC is remarkable, particularly when you take into account the fact that South Carolina spends less per inmate than virtually all other states. For far too long the SCDC has been forced to oversee an ever-growing inmate population without a corresponding increase in funding. Despite that lack of funding, inmate escape rates and the number of officers assaulted by inmates have steadily declined over the last six years. We commend the Committee, and particularly Representative Annette Young, for recognizing the need to provide funding levels necessary to accommodate the nation's eighth highest incarceration rate.

We also commend the Committee for recognizing the need to fund the deficit at the Department of Juvenile Justice (DJJ). The leadership and staff at DJJ have accomplished a great deal over the past few years. When the current leadership took over, the department was mired in a 13-year federal lawsuit that was costing the state millions of dollars to defend. Thanks to the work of Judge Bill Byars and the DJJ team, we finally brought the agency out of that suit. The funding provided in this budget shows our state is committed to keeping the agency focused on the needs of the young people it oversees,

rather than being bogged down in a federal suit.

Now we'd offer the following thoughts on how our administration would like to see the budget improved:

### *Annualizations*

In this budget, we see a serious problem with the use of one-time money for recurring needs. An annualization represents borrowing from Peter to pay Paul, and in these economic times this may seem like a quick fix, but in fact it simply delays the need to find real, long-term solutions to the budget problem to a year or two down the road. For several years, we have proposed limiting annualizations to one percent of the total budget so that we do not live with the unrealistic expectation that revenue is going to grow each year to cover the shortfalls created in an annualization.

This bill takes annualizations to a level never before seen in this state by dedicating \$740 million of anticipated federal funds from the recently-passed American Recovery and Reinvestment Act. One of our objections to this federal legislation during the debate phase was the inherent danger of states building budgets on these one-time funds, only to face massive budget cuts or tax increases when the federal funds dry up.

There are two things to consider in this equation. First, states have not been innocent in this spending spree. Over the last 15 years, states have outpaced even federal spending, with state budgets increasing 122 percent. The federal budget grew by 108 percent. Second, we should not build a budget based on Washington sending more money given that the money now contemplated in the stimulus package is not even here.

With that in mind, we think it would be a mistake to build more than 10 percent of our budget on annualized expenditures. We saw this before at the beginning of this decade, when annualizations reached \$500 million. The next three years left the policy makers making hundreds of millions of dollars in cuts over six mid-year cuts, raiding \$500 million in trust and reserve funds, and leaving us a \$155 million unconstitutional deficit. The emerging view on the economic front is that 2009 is not going to be a strong year and the prospects for 2010 aren't much better nationally. We will weather these challenging times, but accepting the lessons of the past and making strategic and sound budget decisions today is vital to not leaving a gaping budget hole in its aftermath.

For example, South Carolina will receive an estimated \$855 million through an increase in the Federal Medical Assistance Percentage (FMAP) rate increase for Medicaid. In two years, once the FMAP rate increase is gone, South Carolina will be left with a \$535 million hole in its budget. Just to receive sufficient federal funds to plug this hole, the state will have to spend an additional \$160 million. If we don't have this money, we will be cutting payments to providers or people and in doing so pulling the rug out from under many who most need services.

It is true that the intent of much of the stimulus money coming from Washington is to

bring funding for programs such as Medicaid and K-12 education back to their funding levels prior to the economic downturn. But the Ways and Means Committee managed to “one-up” Washington by opting to spend one-time stimulus funds on items that were not in the last Appropriations Act or even to increase spending for other items. For example, the Committee provided funding for the Special Olympics, which is not in the current budget. While we applaud the mission of the Special Olympics, the overwhelming majority of their funding is raised through private donations.

In addition, the Committee increased funding for the Rural Hospital Grant from \$3 million to \$5 million. This program serves only 13 of 23 designated rural hospitals in South Carolina. The grants were started by a previous Medicaid Director and ended at the beginning of this Administration. Funding was subsequently provided in past budgets and, through the Department of Health and Human Services, we have insisted that hospitals apply and receive awards based on merit. Not surprisingly, the Committee has moved this funding to the Department of Health and Environmental Control, a non-cabinet agency.

We continue to believe that annualizations should not comprise more than one percent of the total budget. This goal was met in our Executive Budget and we hope the annualizations included in the Ways and Means’ budget will be reduced when the bill is debated on the House floor.

### ***Proviso 72.23***

Second, we would like to point out a proviso that has the potential to hamstring the work of a number of cabinet agencies. Proviso 72.23 attempts to micromanage cabinet agencies (but not any other state agency) – even going as far as to have cabinet directors fill out time sheets when they are not in the office. The proviso also calls for the creation of a “Cabinet Agency Administration” to consolidate administrative functions of cabinet agencies and instructs the Legislative Audit Council to conduct an audit of every cabinet agency. With each LAC audit costing the taxpayers an average \$620,000, the fiscal impact of this proviso will be around \$9.3 million.

For over six years we have pointed out the need to restructure state government by consolidating functions that are duplicative. No group of agencies has done more to find waste in their respective corners of state government than our cabinet agencies. Since joining our cabinet, the Department of Transportation has located over \$27.5 million in cost savings. Since 2003 when the Department of Motor Vehicles joined the cabinet, they have located \$6.67 million dollars in savings and returned \$51 million to the general fund, due to increased revenue from the increase in efficiencies at the agency. LLR has located over \$3.5 million in cost savings. The Department of Health and Human Services has opened nearly 2,000 individual fraud cases and has recouped over \$80 million. These are just a few examples, but similar stories can be found at nearly every cabinet agency. Now these same agencies are being singled out, while no other agency is asked to consolidate any functions.

This proviso is a clumsy and limited effort to get at the same things we have been proposing for years. Specifically, we have worked with the House to enact a bill to create a Department of Administration, which would effectively consolidate the administrative functions of the entire Executive Branch. That bill passed the House unanimously last year and is working its way to the floor again this year.

We have also proposed a Sunset Commission which would do a total review of every state agency and make recommendations to the General Assembly. It would also sunset agencies every 12 years and if the General Assembly did not act, those agencies would cease to exist. This legislation has passed the House overwhelmingly in the last two legislative sessions. At the same time, the Legislative Audit Council returned with a troubling audit of the Department of Disabilities and Special Needs and the House is now investigating the silent bankruptcy of our Unemployment Trust Fund at the Employment Security Commission – neither of which is included in this proviso.

If the goal is to make meaningful changes to accountability and oversight, we recommend that the General Assembly pass those bills immediately. Otherwise, this proviso simply wraps overpriced red tape around 15 Cabinet agencies, while 73 other agencies continue to operate with significantly less transparency or accountability.

### ***Public Safety Cuts***

Third, we believe the Ways and Means budget doesn't do enough in the area of public safety. While we applaud the Committee for funding the deficits at the Department of Corrections and the Department of Juvenile Justice, we would point out that some of the funds for the deficit at SCDC, and all of the funds appropriated to DJJ, were non-recurring funds. The deficits at these agencies will remain until they are completely filled with recurring dollars.

Other public safety agencies such as the Department of Probation, Parole and Pardon Services (PPP) and the Department of Public Safety (DPS) took cuts at a time when they can least afford them. PPP was cut by \$1.65 million (8.3% of their budget), while DPS was cut \$2.66 million (3.7% of their current budget). Many of the gains that have been made in these agencies over the last few years will be lost should these cuts remain, and these agencies will be put at risk of facing a deficit, just like SCDC and DJJ.

PPP has worked hard to make the cuts that the agency has been forced to take this year. The agency has furloughed employees, closed day centers, and even eliminated drug testing for offenders because they can no longer afford to pay for the tests. This reduction in general funds comes at a time when an agency that is primarily reliant upon fees faces the likelihood that fee revenue will drop sharply during the economic downturn. If the \$1.65 million cut is left in this budget, the agency will face the likelihood of running a deficit in FY 2009-10.

The proposed reduction of \$2.6 million in the DPS budget eliminates the agency's ability to fund a class of Highway Patrol officers in FY 2009-10. Even worse is that this cut, when coupled with the previous budget cuts, essentially eliminates the funding for the 300 troopers that was provided from FY 2005-06 through FY 2007-08. We would ask that the funding for these agencies be restored.

We understand that the logic behind these agency base reductions is that agencies that were not already receiving funds at or below their FY 2005-06 funding level were cut down to the level of funding received in the FY 2005-06 Appropriations Act. However, the Budget and Control Board, an agency that provides no direct services to citizens, is still receiving \$5.5 million *more* than they received in FY 2005-06 in the budget passed by the Ways and Means Committee. If other agencies are taking cuts so their funding level will correspond with FY 2005-06 funding levels, then I don't believe the Budget and Control Board should be shielded from the cuts applied to the other agencies of government that directly serve the people of South Carolina.

### ***Discount for State Health Plan Enrollees who do not use Tobacco***

To meet the state employee health plan's budget needs this year without enacting a rate increase for employees, the General Assembly must appropriate \$14.9 million in general fund dollars. As you know, the Budget and Control Board unanimously voted in August 2008 to implement a \$25 per month surcharge for health plan members who use tobacco, which is to go into effect in January 2010. This measure alone will save the state approximately \$4.6 million in FY 2009-10 despite the fact that it will only be effective for the second half of the fiscal year. As you know our administration pushed for an immediate change, but the most we could get passed was a delayed start. While we are pleased with the Board's action in approving this surcharge, we would like to see the General Assembly increase the amount of the surcharge and expedite its implementation. By increasing the surcharge to \$40, and making it effective at the beginning of the fiscal year, the state could save an additional \$8.4 million in general funds.

We believe that this surcharge is an important step to saving a considerable amount of money for the state while also improving health by linking smoking's cost to those who elect to use it. To achieve these results, however, the General Assembly must enact legislation that will expressly give the state the right to implement differential insurance rates for tobacco users. The Budget and Control Board has proposed permanent legislation and a temporary proviso to the House Ways and Means and Senate Finance Committees to cure these potential legal issues, and we encourage the General Assembly to adopt one of these proposals as soon as possible.

### ***Security Detail***

This budget once again provides for a security detail for the Lt. Governor. While our opposition to this practice has been well-chronicled, it's particularly troublesome during the difficult economic climate in which we find ourselves. We think the example set by former Lt. Gov. Bob Peeler on this front was the right policy, particularly given that

officials like the Chief Justice and Attorney General who are making far more sensitive decisions on a daily basis are not afforded their own security details.

I offer these comments in the spirit of hoping to work toward a budget that will serve our state in the upcoming fiscal year and not hamstring the efforts of budget writers two years from now. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to be 'M' followed by a horizontal line.

Mark Sanford